

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern District)**

HARDWIRE, LLC,

Plaintiff,

-v-

**IRVIN EBAUGH, IV,
INFRASTRUCTURE ARMOR, LLC**

And

**FREYSSINET INTERNATIONAL ET
CIE**

1 Bis, rue du Petit Clamart, Bat C,
78148 Velizy Cedex, France,

And

FREYSSINET, INC.

44880 Falcon Place, Suite 100
Sterling, VA 20166.

Defendants.

Civil Case No. 1:20-cv-00304-JKB

**MOTION FOR LEAVE TO AMEND THE COMPLAINT PURSUANT TO FED. R. CIV.
P. 15 AND TO JOIN ADDITIONAL PARTIES PURSUANT TO FED. R. CIV. P. 20**

Plaintiff, Hardwire, LLC (“Hardwire”), respectfully submits this Motion for Leave to Amend the Complaint pursuant to Fed. R. Civ. P. 15(a)(2) and to join Freyssinet, Inc. (“Freyssinet USA”) and Freyssinet International Et CIE (“Freyssinet International,” collectively the “Freyssinet Companies”) as additional defendants pursuant to Fed. R. Civ. P. 20(a)(2). Defendants, Irvin Ebaugh, IV (“Ebaugh”) and Infrastructure Armor, LLC (“IA”) (collectively, the “IA Defendants”) have advised that they do not oppose Hardwire’s motion for leave to file an Amended Complaint provided, however, that the IA Defendants reserve all rights with respect to responding to the Amended Complaint once it is filed.

In support of this Motion, Hardwire submits the accompanying Memorandum of Law dated December 15, 2020, which is incorporated herein by referenced, and states as follows:

1. Hardwire files this motion after learning of information from documents and information produced by the IA Defendants on or around November 18, 2020.

2. Specifically, discovery revealed that the IA Defendants and the Freyssinet Companies engaged in a conspiracy to obtain and misappropriate confidential and proprietary information and trade secrets. Through this conspiracy, the IA Defendants and the Freyssinet Companies intended to suppress competition in the marketplace and attempt to obtain a monopoly. This newly discovered information gives rise to the following additional causes of action against IA Defendants: (i) Civil Conspiracy; (ii) violation of Section 1 of the Sherman Act, 15 U.S.C. § 1; and (iii) violation of Section 2 of the Sherman Act, 15 U.S.C. § 2.

3. Hardwire also learned that the Freyssinet Companies intentionally breached a non-disclosure agreement with Hardwire and fraudulently induced Hardwire to provide it with confidential information as well as trade secrets in furtherance of their wrongful scheme with the IA Defendants to misappropriate confidential information and suppress competition.

4. Thus, pursuant to Fed. R. Civ. P. 20, Hardwire seeks to join Freyssinet Companies as parties to this action and assert the following causes of action: (1) Violation of Defense of Trade Secrets Act, 18 U.S.C. § 1836 *et seq.*; (2) Violation of Maryland Uniform Trade Secrets Act, Md. Code Ann. Comm. Law § 11-1201 *et seq.*; (3) Breach of Contract; (4) Fraud; (5) Civil Conspiracy; (6) Violation of Section 1 of the Sherman Act, 15 U.S.C. § 1; and (7) Violation of Section 2 of the Sherman Act, 15 U.S.C. § 2.

5. On or around December 11, 2020, Hardwire sought the IA Defendants' consent to file the Proposed Amended Complaint and provided the IA Defendants' counsel with a clean and

redline copy of same. A clean and redline copy of the Proposed Amended Complaint are attached hereto as **Exhibits A and B**, respectively.

6. The IA Defendants have advised that they do not oppose Hardwire's motion for leave to file an Amended Complaint provided, however, that the IA Defendants reserve all rights with respect to responding to the Amended Complaint once it is filed.

7. The deadline to amend pleadings or join additional parties is **February 13, 2021**.

WHEREFORE, for the reasons set forth herein, and those discussed in detail in the accompanying Memorandum of Law filed contemporaneously herewith, Hardwire respectfully requests the Court grant it leave to amend its Complaint pursuant to Fed. R. Civ. P. 15(a)(2), and to join Freyssinet Companies as additional defendants pursuant to Fed. R. Civ. P. 20(a)(2).

Respectfully submitted,

Dated: December 15, 2020

/s/ Gary H. Leibowitz

Gary H. Leibowitz (Bar No. 24717)
Cole Schotz P.C.
300 E. Lombard Street, Suite 1450
Baltimore, MD 21202
(410) 230-0660
(410) 528-9401 Facsimile
gleibowitz@coleschotz.com

Michael D. Sirota, Esq. (*admitted pro hac vice*)
Michael R. Yellin, Esq. (*admitted pro hac vice*)
1325 Avenue of the Americas, 19th Floor
New York, New York 10019
Telephone: (212) 752-8000
Facsimile: (212) 752-8393

Norman L. Pernick, Esq. (*admitted pro hac vice*)
500 Delaware Avenue, Suite 1410
Wilmington, Delaware 19801

Attorneys for Plaintiff Hardwire, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of December 2020, a true and correct copy of the foregoing Motion For Leave to Amend the Complaint Pursuant to Fed. R. Civ. P. 15 and to Join Additional Parties Pursuant to Fed. R. Civ. P. 20 was served upon:

Via ECF

Steven Brown, Esq.
Richard A. DeTar, Esq.
McAllister, DeTar, Showalter & Walker
100 N. West Street
Easton, Maryland 21601
Phone: (410) 820-0224
Facsimile: (443) 746-3298
rdetar@mdswlaw.com
sbrown@mdswlaw.com
Counsel for the IA Defendants

Via Electronic Mail and Federal Express

Susan Elliot, Esq.
Freyssinet, Inc.
44880 Falcon Place, Suite 100
Sterling, Virginia 20166
susan.elliott@freyssinetusa.com

Via Federal Express

Freyssinet International et CIE
1 Bis, rue du Petit Clamart, Bat C,
78148 Velizy Cedex, France

/s/ Gary H. Leibowitz
Gary H. Leibowitz (Bar No. 24717)